Supplementary Grants.

(1) 16—Law and Justice—Criminal Justice—Rs. 20.

Mr. K. Achyuta Menon.—Sir, I rise to move for a supplementary grant of Rs. 20 under 16—Law and Justice—Criminal Justice—Temporary Establishment. The increased expenditure has been necessitated by the appointment of a temporary copyist in the Kanayannur Magistrate's Court for one month on Rs. 20 from 1st Chingam 1108, for taking copies of judgments of the Additional First Class Magistrate's Court in connection with the Kumbalangi Riot cases. No provision had been made for this expenditure in the budget for the year. Hence the request for this allotment. I request the House to sanction the supplementary grant.

Motion No. 1.

Mr. K. M. Ibrahim.—Sir, I have to move *to reduce the allotment of Rs. 20 by Re. 1*: to discuss the urgent necessity of collecting statistics on propertied classes forming the subject matter of a question in one of the previous meetings.

Sir, there is a section among our countrymen that considers those of us who happen to participate in these so-called organs of self-government as a pack of veritable fools. Our position is made all the more ridiculous by the half-hearted way in which things are being dealt with from the other side. Among the myriads of instances that go to prove the above statement is the one that has provoked the present motion. I invite the attention of the Hon'ble Members to pages 126—127 of the third series (Part 1—5), Volume II of our Council Proceedings. There occurs a question as follows :—

"Will the Government be pleased to state (a) the acreage of the largest land-hold in the State under the direct management of a single proprietor;

And the answer is :—

"It is not possible to furnish the information without an elaborate enquiry. Government do not consider that the results of such an enquiry would justify the large expense involved in making it."

"(b) How the Government reconciles the existence of similar land-holds with considerations of public welfare."

The answer is :—

"Government do not think it opposed to public welfare."

"(c) How the Government intends to mend such social evils?"

The answer is:—

"No answer is necessary in view of the reply to (b)."

Then a large number of supplementary questions were put. The question is:—

"Is not the money that the Government commands for public good?"

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The answer is:—

"Yes. But it is not the only public good. It is not a sufficiently public good to spend the money on."

Then again the question is:—

"Am I to understand that you do not consider that this item of the acreage of the largest land-hold in the State under the direct management of a single proprietor is not to be enquired into"

And first the answer is:—

"I do not understand the question".

Then the question is:—

"Whether your money is not for public good."

The answer is:—

"Yes".

Question:—

"You do not consider this enquiry in accordance with public good?"

Answer:—

"No."

Question.—

"What are your reasons for it."

Answer:—

"The reasons are so obvious. I do not take up the time of the House by referring to them. I do not think it will serve any public good. That is the opinion of the Government."

Again the questions end with the answer that:—

"That is the opinion of the Government."

Can there be a more chronic type of indifference? The undesirability of the unhealthy concentration of land in the hands of a few in our capitalistic society and the urgency of checking it was evidently the purport of the question, but this is the kind of answer the dilapidated fineries of this House supply us with. Large-scale cultivation under single proprietors is a decided evil. Apart from the fact that a few have no right to heap up the shares of many, cultivation and agriculture in the abstract suffers from such direct management. It is a matter of everyday experience to us in the villages that such proprietors neither manure the land properly nor do the seasonal labours sufficiently on them. The bulk of the land is such that the single proprietor has of necessity to be negligent about his duties. In other words intensive cultivation which is the only hope for agriculture in future suffers. Imagine also the lot of thousands of unemployed workers which this negligent system of agriculture will cause. Either an efficient management by the State of all land or an intensive cultivation of equitably distributed small farms is the only remedy for this malady. And when we ask for necessary statistics to stress the point you come and confront us with such antique and anachronistic evasions, which are to my mind but a milder demonstration of the autocracy and unconstitutionalism you are at every step treating

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us with to suffocation. It will be well if the gentlemen on the other side will exert themselves and give us the required figures and regulations. I request the Hon'ble Members of this House to enthusiastically pass this cut so that it may act as a check and corrective against repetitions of similar pernicious practices. The very reputation and dignity of this House is at stake in an issue like this and I request my Hon'ble friends to rise to the occasion.

മിസ്റ്റർ കെ. അയ്യപ്പൻ—ഞാൻ ഇതിനെ പിന്താങ്ങുന്നു. ഇതു എങ്ങിനെയെങ്കിലുമാക്കിയെടുക്കേണ്ട ഒരു സംഗതിയാണു്. യഥാർത്ഥത്തിൽ ജനങ്ങൾക്കു് അത്യാവശ്യമായ ഇങ്ങിനെ കാര്യങ്ങളെപ്പറ്റി പറയുമ്പോൾ ഗവൺമെൻറു് പൊട്ടച്ചെവിയാണു് പിടിയ്ക്കുന്നതു്. ഇങ്ങിനെ കാര്യങ്ങൾ കേൾക്കാനുള്ള നല്ല മനസ്സുകൊണ്ടും ആദ്യം ഗവൺമെൻറ് മെമ്പർമാർക്കുണ്ടായാൽ കൊള്ളാം.

Mr. K. Achyuta Menon.—Sir, I oppose this motion. I confess I have not been able to follow the Hon'ble mover in all his arguments. I expected something from the next speaker, but he closed with assuring us that this is a very serious matter. If definite materials are available as to what exactly is required, Government are prepared to consider any recommendations in this matter. But statements such as inviting Government or asking Government whether they are not aware that people who participate in organisations of self-government are not regarded as a pack of fools may not be of any use.

Mr. K. M. Ibrahim.—On a point of information. Is that the point at issue?

Mr. K. Achyuta Menon.—I was just referring to the first statement that you made and I was going to say that it will not help a practical solution of that matter. But if any practical suggestions are forthcoming, such as, what exactly the term 'propertied classes' is meant to connote, whether it includes landed properties or not, or if it is landed, what amount of possession of landed property is required to make one belong to the propertied class, the Government are prepared to welcome such suggestions. I am sure, Hon'ble Members of this House are aware, that the Government have under consideration an economic survey of this State and if definite suggestions are forthcoming as to what exactly is required in this matter, the Government are prepared to do their utmost. Beyond that assurance I think Hon'ble Members cannot expect anything more in this matter from the Government.

Mr. K. M. Ibrahim.—Am I to understand that you can give the statistics or figures about the largest landholdings?

Mr. K. Achyuta Menon.—Attempt will be made in that direction in the economic survey.

Mr. K. M. Ibrahim.—On this assurance I, beg to withdraw the motion.

Motion withdrawn with leave of the House.

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Motion No. 2.

Mr. K. M. Ibrahim.—Sir, I move another cut *to reduce the allotment of Rs. 20 by Re. 1*: just to show the want of sympathy on the part of our Civil Courts to our indebted peasantry. Before proceeding on the subject, will the Hon'ble the Law Member give the information I have asked for in this cut motion, viz., the total number of instalment payment decrees and coercive steps for realisation for the last 10 years?

Mr. K. Achyuta Menon.—The cut motion, I think, was received only last Monday and the information to be collected is vast. The time has been very short for the collection of any information in the matter. Information on the total number of instalment payment decrees and coercive steps for realisation in all the courts of the State means an inquiry into all the execution petitions which have been put in for the last 10 years.

Mr. K. M. Ibrahim.—At least for the last one year?

Mr. K. Achyuta Menon.—Even that is not possible.

Mr. K. M. Ibrahim.—There was more than a week's time?

Mr. K. Achyuta Menon.—A week is nothing in this matter.

Mr. K. M. Ibrahim.—I am not satisfied with the Government's position. Our courts have been in the main serving the interests of the capitalists and money-lenders. The paying capacity of the agriculturists or their numerous difficulties were never appreciated by them. The only question for them has always been, how best to recover the cash of money darling capitalist. The poor agriculturist may starve or die, who cares? Some of us have bitter memories of seeing ancient families shifting wholesale from our parts for shame of their inability to live up to the standard of generations, by the activities of the hard-hearted money-lenders assisted by law. The unscrupulous money-lender who exploits our poor agriculturists by advancing them money and entangling them in fresh usurious transactions is a decided evil and he must go. Better regulate things before it is too late. If proper palliatives are not administered in time we will begin to see red. I press the cut so that the Government may urgently deal with the question and I request you, Hon'ble colleagues, with all the fervour I can command to stand by the country.

Mr. K. Achyuta Menon.—I rise to oppose this motion also. The resolution charges the courts of this State with want of sympathy to our indebted peasantry and the Hon'ble mover of the motion says that the courts are now showing a partiality to the capitalists of the State. I doubt very much if it is a fact. I am of opinion that, if at all, their sympathies are all for the judgment-debtors, as will be evident from the great difficulty experienced by decree-holders in realising decrees. The courts

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have vast powers of discretion in matters of this kind and Government do not think any further action is called for. Moreover, the Code of Civil Procedure contains adequate provisions to enable the court to give proper relief to judgment-debtors in all cases. On these grounds the Government oppose it.

Mr. K. M. Ibrahim.—On a point of information, Sir. In the last Budget session on page 338, the Government gave an assurance when the mover asked the Government to consider the matter in detail. The Government replied. "He asked us, therefore, to consider the matter in detail, to put it as one of the items for the Heads of Departments' conference and try to see what could be done. That the Government shall do". May I know what the Government have done in pursuance of that?

Rama Varmha Tampuran.—There has not been a conference since then.

Mr. K. T. Mathew.—May I ask whether the Government will read and consider one of the legislations to which reference was made by His Excellency the Viceroy in his writing, giving some relief to the indebted ryots in the Central Provinces and also another legislation which was recently passed in Hydrabad?

Rama Varmha Tampuran.—They will certainly examine those papers.

Mr. K. M. Ibrahim.—Sir, the Government reply is as usual very unsatisfactory. All the same, since they have promised to consider the question and to expedite whatever they can do in the matter and as there is no chance of our getting this motion passed in a Council, constituted as ours is, I beg to withdraw the motion.

Motion withdrawn with leave of the House.

Motion No. 3.

Mr. M. K. Raman.—*To reduce the allotment of Rs. 20 by Re. 1:*—

Sir, before moving this motion I would like to get a piece of information; whether this prosecution notice was issued by the District Magistrate at the instance of the Government or *suo moto* by the District Magistrate himself. If the Government will kindly give me an answer it will help me much.

Mr. K. Achyuta Menon.—No orders have been issued to the District Magistrate to issue the notice in question.

Mr. P. Kumaran Ezhuthassan.—Was any advice given him?

Mr. K. Achyuta Menon.—No.

Mr. M. K. Raman.—My question is whether it was at the instance of the Government that this notice was issued?

Mr. K. Achyuta Menon.—No.

Mr. M. K. Raman.—Thank you. Sir, this token motion is tabled with the intention of bringing to the notice of this

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the liberty of the Press, as exemplified by the prosecution notice which was issued to the editors of the paper called 'Swathanthran' on 26th Vrischigam 1108 and the subsequent proceedings which ended in nothing. I may invite the attention of this House to section 93 of the Criminal Procedure Code which says that "no proceedings shall be taken under this section against the editor, proprietor, printer or publisher of any publication registered under or printed or published in conformity with, any rules that may be laid down by the Government, except by the order or under the authority of the Government in this behalf". That is the only section for starting prosecution against papers, journals and other such things. That section clearly says that no action shall be taken by the District Magistrate in this matter without the authority of the Government, and the Government gives an answer that they have not ordered. I may bring to the attention of this House that this is the only provision in law which would entitle the District Magistrate to act in such cases. We have got another Regulation, the Cochin Press and Registration of Books Regulation, VII of 1097. That Regulation does not make any provision for the District Magistrate to take any action against the printer or publisher of a newspaper. That Regulation deals only with the question of registration of a declaration but nothing which entitles the District Magistrate to issue a notice under circumstances like these.

Now, I come to the notice issued by the District Magistrate. I have brought the notice here which, I suppose, will be interesting to the House:—

Office of the District Magistrate,
Trichur,
26th Vrischigam 1108.

NOTICE.

It has been brought to the notice of the undersigned that the Editors of the Newspaper "Swathantran" are, by publishing certain articles in the issues of the paper for the 7th, 15th and 22nd of Vrischigam 1108, attempting to bring into hatred, contempt and disrespect on lawfully constituted authorities of the Government of His Highness the Maharaja of Cochin and to create disaffection in the minds of His Highness' subjects and to create communal and class hatred and thereby tend to provoke a breach of the peace, Messrs. K. S. Panikkar and T. K. Sankaran, joint Editors of the 'Swathantran', are therefore directed to appear before the undersigned at Trichur on 2nd Dhanu 1108 and show cause why action should not be taken against them.

Herein fail not.

(Sd.)
For District Magistrate.

This is the notice. Now I may invite the attention of this House to the issues of the paper referred to, viz., 7th, 15th and 22nd Vrischigam. On the 7th there was no issue. It was on the 8th. 7th is clearly a mistake and I have got a paper of the 8th here. I shall place the papers on the table of the House. I do not find in that issue of the paper anything against the Government. Next is the paper of the 15th Vrischigam. Evi

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dently this is the issue that contains some reference to the Government. In this there is a leading article which speaks something about the acting Diwan under the title, "കിഴവന്മാരുടെ കഴിവുകേട്". I am not going to read the whole article. I do not think it would serve any useful purpose. Some sentences here and there maybe necessary just to show what was the nature of the article:—

"പൊതുജനാഭിപ്രായത്തെ ബഹുമാനിക്കുവാനുള്ള" സന്നദ്ധതകിഴവന്മാക്കുപ്രായേണ വളരെ കുറവാകുന്നു. ലോകഗതിയോടുയോജിക്കുന്ന യുവഹൃദയങ്ങൾ സ്വാധീനമാക്കീട്ടുള്ള വയസ്സന്മാർ വളരെ ദുർല്ലഭം. യുവഹൃദയങ്ങളിൽ നിന്നു പുറപ്പെടുന്ന ആശയങ്ങളാണു് പൊതുജനങ്ങൾക്കു് എറവും സ്വീകാര്യമായിത്തീരാറുള്ളതു്. നൂതനമായ ആശയങ്ങൾക്കും ഉന്നതമായ ആദർശങ്ങൾക്കും വിപരീതമായി പ്രവൃത്തിക്കുന്ന യാഥാസ്ഥിതികരായ മുതുകിഴവന്മാരെ ഏതൊരു രാജ്യത്തിലേയും പരമാധികാരസ്ഥാനത്തു പ്രതിഷ്ഠിക്കുന്നതായാൽ അതുമൂലം സംഭവിക്കാവുന്ന ദുരിതഫലങ്ങൾ ഭയങ്കരങ്ങളായിരിക്കും.

മിസ്റ്റർ കസ്തൂരിരങ്കയ്യരെ കൊച്ചി ദിവാൻജിയായി നിയമിച്ചതുമൂലം ഇപ്രകാരമുള്ള വളരെ അനിഷ്ടഫലങ്ങൾ അനുഭവിക്കാതെ നിവൃത്തിയില്ലെന്നുള്ളതിനു പലലക്ഷണങ്ങളും കണ്ടുകഴിഞ്ഞിരിക്കുന്നു. നിയമങ്ങളുടെ മനകൾ നീട്ടി പൊതുജനഹിതത്തെ കീറി വ്രണപ്പെടുത്തുവാനുള്ള അദ്ദേഹത്തിന്റെ അതിസാമർത്ഥ്യമാണ് അത്യന്തം ഉത്സുഹമായിട്ടുള്ളതു്. ജനങ്ങളുടെ ആവശ്യത്തിനും സൌകര്യത്തിനുംവേണ്ടി നിർമ്മിച്ചിട്ടുള്ള നിയമങ്ങൾ, ജനഹിതത്തിനു എതിരായി പ്രയോഗിക്കുന്ന നയങ്ങൾ ഇക്കാലത്തുംകൂടി അവലംബിക്കുവാൻ ഭരണാധികാരികൾക്കു ധൈര്യം വരുന്നതു പൊതുകാര്യങ്ങളിൽ ജനങ്ങളുടെ സംഘടിതമായ പ്രക്ഷോഭണത്തിന്റെ അഭാവം മൂലവുമാകുന്നു. ഭയങ്കരമായ പ്രക്ഷോഭണങ്ങൾ കൂടാതെ തന്നെ പൊതുജനാഭിപ്രായമനുസരിച്ചു് ന്യായമായി പ്രവൃത്തിക്കുവാൻ ശ്രമിക്കുന്ന ഭരണാധികാരികളും ഇല്ലെന്നില്ല. അതിനുവേണ്ടിയാണു ജനഹിതത്തെ ബഹുമാനിക്കുന്ന സ്വഭാവക്കാരെ, മാത്രമെ ഉത്തരവാദിത്വമേറിയ സ്ഥാനങ്ങളിൽ നിയമിക്കയുള്ളു എന്ന പ്രതിജ്ഞ ദീക്ഷിക്കണമെന്നഞങ്ങൾ പറയുന്നതു". യാഥാസ്ഥിതികരായ കിഴവന്മാർക്കു ജനഹിതം അറിഞ്ഞു പ്രവൃത്തിക്കുവാനുള്ള കഴിവു താരതമ്യേന വളരെ കുറവാകുന്നു, പൊതുജനഹിതത്തെ വിലമതിക്കുവാനുള്ള നാടികളെല്ലാം തളർന്നുപോയിട്ടുള്ള ഇത്തരക്കാരെ ഉയർന്ന സ്ഥാനങ്ങളിൽ നിയമിക്കുവാൻ നാട്ടുകാർ അനുവദിക്കുന്നതാണു" അബദ്ധമായിട്ടുള്ളതു". ജനങ്ങളെല്ലാം ഒത്തുചേർന്നു ഒരേസ്വരത്തിൽ ആവശ്യപ്പെടുന്ന അയിത്തോച്ചാടനത്തെ സംബന്ധിച്ച പല നിശ്ചയങ്ങളും ഉപക്ഷേപങ്ങളും പ്രകരക്കാരനായ പുതിയ ദിവാൻജി നിയമസഭയിൽ ആലോചനക്കു സ്വീകരിക്കാതെനിയമതടസ്ഥങ്ങൾ പറഞ്ഞും പ്രത്യേകാധികാരങ്ങൾ അവലംബിച്ചും നിരസിച്ചിരിക്കുന്നതായി കാണുന്നതിൽ ഞങ്ങൾ അണുവോളം അത്ഭുതപ്പെടുന്നില്ല. ക്ഷേത്രപ്രവേശനം എന്നപദം തന്നെനിയമസഭാപ്രസംഗങ്ങളിൽ പ്രയോഗിക്കരുതെന്നുകൂടി യോഗത്തിൽവെച്ചു ദിവാൻ പ്രസിഡണ്ടു" കൽപനയായി തടഞ്ഞിരിക്കുന്നുവത്രെ. അദ്ദേഹം അപ്രകാരമെല്ലാംപ്രവർത്തിക്കാതിരുന്നുവെങ്കിലാണു ഞങ്ങൾ അതിശയിക്കുമായിരുന്നതു". നാലുമാസത്തോളം മാത്രം ഉദ്യോഗജീവിതത്തിൽ ബാക്കിയുള്ളതിനിക്കു ഇനിഅധികം കൃത്യങ്ങൾ എന്നായിരിക്കാം അദ്ദേഹത്തിന്റെ മനോഭാവം. ക്ഷേത്രങ്ങളുടെ ചുറ്റുമുള്ള പുറമ്പോക്കുകളെല്ലാം ദേവസ്വം വകയാക്കി മാറ്റിയും നാടൻഭരണസമ്പ്രദായങ്ങൾ വീണ്ടും ആവർത്തനംചെയ്യുതുടങ്ങിയിരിക്കുന്നു എന്ന മാത്രമെ ഇപ്പോൾ വിചാരിക്കുവാനുള്ളൂ.

Then reference also is made to the number of welcome addresses and other parties received by the acting Diwan.

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'ഉദ്യോഗസ്ഥന്മാരും നാട്ടുകാരുമായുള്ള ബന്ധത്തിൽ നമ്മുടെ നാട്ടുകാർക്ക് ഉദ്യോഗസ്ഥന്മാരെ കിഴിഞ്ഞ് സേവിച്ച് അവരെ ഉഷിപ്പിക്കുവാനുള്ള വാസനയാണ് അധികം പ്രത്യക്ഷപ്പെടുന്നതു്. മിസ്റ്റർ കസ്തൂരിരങ്കയ്യർ ദിവാൻജിയായപ്പോൾ മംഗളപത്രങ്ങളും അനുമോദനപത്രങ്ങളും കൊടുക്കാൻ വിനിയോഗിച്ച സമയവും കാപ്പി സൽക്കാരങ്ങൾ നടത്തുവാൻ ചിലവിട്ട പണവും ആലോചിച്ചാൽ ഇപ്പോൾ ചെയ്യുന്നപോലെയുള്ള പ്രവൃത്തികളെ എതിർക്കുവാൻ ഉപയോഗിച്ചിരുന്നുവെങ്കിൽ അതുനാട്ടിനും നാട്ടാർക്കും എത്രയോ പ്രയോജനകരമായിരുന്നേനെ". etc. etc.

Then again it continues thus:—

'നാടൻ ദിവാൻ നിയമനത്തെ സർവ്വശക്തിക്കും പ്രയോഗിച്ച് എതുക്കുവാൻ കൊച്ചിയിലേയും തിരുവിതാംകൂറിലേയും പല സമുദായക്കാരും പുറപ്പെട്ടതുപോലെ അവർക്ക് അപ്രകാരം പ്രവൃത്തിക്കാതെ ഗത്യന്തരമില്ലാതെ ആക്കിത്തീർത്തുകൊണ്ടായിരുന്നു. കൊച്ചിയിൽ വെള്ളക്കാരനായ ദിവാൻജിയെയാതൊരു അഭിപ്രായ വ്യത്യാസവുംകൂടാതെ സകല സമുദായക്കാരും ഹൃദയപൂർവ്വം സ്വാഗതംചെയ്ത സന്തോഷിച്ചപ്പോൾ ഇത്രവേഗത്തിൽ അല്പകാലത്തേക്കായാലും ഒരു സ്വദേശിബാധ ഉണ്ടാകുമെന്നു് അവർ സ്വപ്നേപി സംശയിച്ചിരുന്നില്ല. കൊച്ചീക്കാരുടെ രാഷ്ട്രത്തിനു ഇപ്പോൾ സംഭവിച്ചിട്ടുള്ള ഗുണബാധയിൽനിന്നു് ഒട്ടുംതാമസംകൂടാതെ മോചനം സിദ്ധിക്കുവാനാണ് കൊച്ചീക്കാരെല്ലാം ഒരേസ്വരത്തിൽ പ്രാർത്ഥിക്കുന്നത്"'.

Sir, if the intention of the Government is that all papers should only praise them and if any paper criticises any action of any Government servant a prosecution notice has to be issued, of course I have nothing to say. This paper says that the Acting Diwan was not competent, in the opinion of that paper, to carry on the administration and to hold such a responsible office. It says he is too old to be the Diwan. Now the curious thing is that the Government did not move in this matter. It is the District Magistrate who thinks or fancies that he should take action under the Criminal Procedure Code; perhaps he knows that he will be pleasing the Government. It is that impression probably that has induced the District Magistrate to take action even incorrectly. My opinion is that the papers have got a duty. In performing their duty, when they are within their legitimate bounds, it is a very dangerous and undesirable policy for the Government to interfere. I submit that this is an instance of a pernicious and mischievous interference by the District Magistrate. In the first place there is no provision of law under which he can take action. It is easy to issue a notice to any individual and to frighten him. I know after issuing the notice they were much harassed and they were asked to write mild articles—in the words of the District Magistrate, "സ്വരം ഒന്നു പതുക്കെ ആക്കാൻ"—as if the District Magistrate's function is to tell editors how they should modulate their voice. This is an outrageous instance of an improper interference by an incompetent District Magistrate with the liberty of the press. This affects also the prestige of the Government, the self-respect of the editors and also the liberty of the public and of the Press to criticise the Government in their actions in

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Finally I thank the President for allowing me to table this motion; because I sent a number of questions with regard to the same matter but they were not allowed. Of course, I was bound by the ruling of the President and, I could not question then. I am glad that the present President has allowed this token cut and the discussion thereon.

Mr. K. G. Nayar.—On a point of information. Was there any correspondence between the District Magistrate and the Government in respect of this notice?

Rao Bahadur Mr. T. V. Kasturi Ranga Ayyar.—No official correspondence. There was, I believe, some demi-official correspondence, I must refer for details.

Mr. K. G. Nayar.—Is this article read by the Hon'ble Member the subject-matter to provoke the District Magistrate to issue the notice ?

Rama Varmha Tampuran.—Yes. These are the three articles.

Mr. C. A. Ouseph.—May I know whether the then Diwan had written to the District Magistrate regarding this matter, either in his official or demi-official capacity ?

Rao Bahadur Mr. T. V. Kasturi Ranga Ayyar.—To the best of my recollection, the District Magistrate was advised not to go beyond the provisions of law and also to treat these articles with the contempt they deserve.

Mr. K. G. Nayar.—Was any advice given to the District Magistrate by the acting Diwan in his official capacity or his private capacity?

Rao Bahadur Mr. T. V. Kasturi Ranga Ayyar.—I could not give any advice in one capacity alone. I cannot separate the two.

Mr. K. G. Nayar.—Was any advice sought for by the District Magistrate ?

Rao Bahadur Mr. T. V. Kasturi Ranga Ayyar.—One day, he spoke to me about this wonderful article. I told him that I had survived many such articles in the past and that I could survive this also, and that he need not worry to take any action so far as I am concerned.

Mr. K. G. Nayar.—Was there anything in writing ?

Rao Bahadur Mr. T. V. Kasturi Ranga Ayyar.—There was demi-official correspondence. What I told him was—"Oh! Yes,—I am not surprised at such articles. I have survived many such articles in the past and I could survive this one also."

Mr. K. G. Nayar.—This is not a case of survival, Sir. The point I wish to ask is whether the District Magistrate issued this notice with the knowledge of the Government and whether the Government have followed a definite principle. Subsequently we see nothing happening whatsoever. Did the Government care to consider under what circumstances the notice

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was issued and why it was dropped and whether the whole procedure adopted by the District Magistrate was properly legal ?

Rao Rahadur Mr. T. V. Kasturi Ranga Ayyar.—The fact of the notice issued by the District Magistrate came to my notice only just now. After the incident mentioned already, this is the first time that I hear it.

Mr. K. G. Nayar.—Is it not the practice of the Government in such matters to take the opinion of the Government Advocate before they take any action?

Rao Bahadur Mr. T. V. Kasturi Ranga Ayyar.—Government did not issue the notice. The District Magistrate issued the notice.

Mr. K. G. Nayar.—Whether it be the District Magistrate or the Government is it not the policy of the Government in such serious matters, where the liberty of the Press is involved, to consult the Government Advocate ?

Rama Varmha Tampuran.—When they have any doubt they ask the Government Advocate for his opinion.

Mr. K. G. Nayar.—Is the Government now satisfied that the District Magistrate has acted in accordance with the provisions of the law prevailing in the State?

Mr. K. Achyuta Menon.—I do not think that the District Magistrate has transgressed the limits of the law.

Mr. K. Ayyappan.—Under what section ?

Mr. K. Achyuta Menon.—Even under section 93 which the Member has quoted, the District Magistrate is perfectly justified. Section 93 reads thus:— "The Magistrate may require such person to show cause why he should not be ordered to execute a bond, with or without sureties for his good behaviour for such period not exceeding one year as the Magistrate thinks fit."

He has not done that. The fallacy lies in assuming that he has taken action under section 93.

Mr. M. K. Raman.—Please read the next paragraph.

Mr. K. G. Nayar.—Then he should not have issued such a notice.

Mr. K. Achyuta Menon.—He has served a notice only asking them why notice should not be served under section 93.

Mr K. G. Nayar.—Under what Act is the District Magistrate guided in this matter and under what provision of the Act?

Mr. K. Achyuta Menon.—Under the general authority vested in him by the Criminal Procedure Code. It is the duty of the District Magistrate to prevent breaches of peace.

Mr. K. G. Nayar.—Is there any Act which lays down the functions of the District Magistrate ?

Mr. K. Achyuta Menon.—The Criminal Procedure Code.

Mr. K. G. Nayar.—Under what section of the Code has the District Magistrate got authority to do this ?

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Mr. K. Achyuta Menon.—Under the general authority vested in him. The Criminal Procedure Code empowers him in cases where he thinks that the breach of the peace will occur to take all necessary steps to prevent such breaches of the peace.

Mr. K. G. Nayar.—Is it section 124?

Mr. K. Achyuta Menon.—Yes, it can come under that also.

Mr. K. G. Nayar.—Shall we take it that under section 124 the District Magistrate is empowered to do this?

Mr. K. Achyuta Menon.—Yes, if you like.

Mr. K. G. Nayar.—Is the Government Advocate of opinion that there is a likelihood of a breach of the peace by the publication of this article in the Swathanthran paper?

Mr. K. Achyuta Menon.—I can only answer that question if I get all the connected papers which led the District Magistrate to form an opinion.

Mr. K. G. Nayar.—Is this section 125 generally applicable to the Press or is it applicable only in the case of such articles that have a tendency to provoke a breach of the peace?

Mr. M. K. Raman.—May I bring to the notice of this House that this section 125 of the Criminal Precedure Code treats with nuisance, such as, temporary orders in urgent cases to nuisance or apprehended danger? This section 125 corresponds to section 144 of the British Act. That has nothing to do with newspapers.

മിസ്റ്റർ കെ. അയ്യപ്പൻ.—സർ, വർത്തമാനപത്രങ്ങളുടെ സ്വാതന്ത്ര്യത്തെ തടയുവാൻ ഗവമ്മെണ്ടു ശ്രമിക്കരുതെന്നാണ് എന്റെ അപേക്ഷ. ഇപ്പോൾ ഇവിടെ വായിച്ച ലേഖനങ്ങളിൽ ഗവമ്മെണ്ടു് നടപടി നടത്താൻ തക്കതായിരുന്നും ഇല്ല. പുതിയ പ്രമായതുകൊണ്ടു് പരിചയക്കുറവു നിമിത്തം എഴുത്തിനു് കൈരേലം കുറഞ്ഞുപോയി എന്നു വേണമെങ്കിൽ പറയാം. ഈ ലേഖനങ്ങളിൽ പറഞ്ഞിരിക്കുന്നതിലും രേഖതായായ അക്ഷംങ്ങൾ മാവാനെപ്പറ്റി ആക്ഷേപിക്കാൻ പാടില്ലായ്കയില്ല. ഡിസ്ട്രിക്ട് മജിസ്ട്രേട്ട് ന്യായമായിട്ടായാലും അക്ഷങ്ങൾ മാവാൻ പറഞ്ഞിട്ടായാലും ഈ പത്രത്തിന്റെ അധിപന്മാരെ പിടികൂടിയതു ശരിയായില്ല.

റാവുബഹദൂർ മിസ്റ്റർ ടി. വി. കുഞ്ഞിരാമക്കുറുപ്പ്.—അതു ഞാൻ പറഞ്ഞില്ല.

മിസ്റ്റർ കെ. അയ്യപ്പൻ.—എന്നു പറഞ്ഞില്ല ഞാനും.

കൊച്ചി ഗവർമ്മെന്റു പത്രങ്ങളെ കുറവാണ്. ഇവിടത്തെ പത്രങ്ങൾ അത്തരവിലൊന്നും എഴുതാറില്ല. എന്നിട്ടും പത്രങ്ങളുടെ സ്വാതന്ത്ര്യം കയ്യൂക്കുവാനായി ഒരു റെഗുലേഷൻ പാസ്സാക്കുന്നതിനു കുറെ മുമ്പെ ഗവമ്മെൻറു് ശ്രമിക്കയുണ്ടായി. ഇപ്പോഴത്തെ

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ട്രിവാൻജ്രം വന്നില്ലെങ്കിൽ അതു തീച്ചയായും ന്യായമായും തീരുമായിരുന്നു. ആ റെഫ്രഷ്മെൻറ് പാസ്സാക്കാത്തതുകൊണ്ടു് കൊച്ചിയിൽ പത്രങ്ങളെകൊണ്ടു് ഒരു ആപത്തും സംഭവിച്ചിട്ടില്ലെന്നു് ഇതെവരെയുള്ള അനുഭവം തെളിയിച്ചിരിക്കുന്നു.

ഇവിടത്തെ പത്രങ്ങൾ വലിയ പ്രാബല്യത്തിൽ വന്നിട്ടില്ല. സാമ്പത്തികമായും മറ്റും വലിയ പ്രയാസങ്ങൾ സഹിച്ചാണു് പത്രങ്ങൾനടത്തിക്കൊണ്ടുപോകുന്നതു. പത്രങ്ങൾ രാജ്യത്തു ആവശ്യവുമാണു്. ആ സ്ഥിതിക്കു ഇവിടത്തെ പത്രങ്ങളെ പ്രോത്സാഹിപ്പിക്കേണ്ട കടമയാണു് ഗവൺമെണ്ടിനുള്ളതു്. അതിനു പകരം പത്രങ്ങളെ മർദ്ദിക്കുവാൻ ഗവൺമെണ്ടു തുടങ്ങുകയാണെങ്കിൽ കഷ്ടമായിരിക്കും-

Dr. A. R. Menon.—Sir, a few years ago when I attended an Inter-Statal Conference of Indian States it was mentioned that our sister State has got a large number of gun salutes than we have. I said I would rather live in a country with a smaller number of guns but without a press law, than in a country which has 21 guns as salute but with a press law. But I have been compelled to modify that view and I hope nobody will accuse me of being a camp-follower of Government. But equity, justice and fairness demand that these irresponsible papers should be bridled and kept under proper control. I do not say that all papers are alike, but there are scandal-mongers and quill-drivers showering abuses upon men who do not yield to their threats. You will see such cases of persistent prosecution of a person who defies this gutter-press, because he knows that the general sense of the public and the general conduct of the public will support a person in spite of the abuses, the venomous abuses, showered upon the public, Government officials and semi-officials. Instances are in legion.

I have been led to think that most probably, if a non-official Member had introduced a press law it would take away the sting which is attributed to the press and it would have been much better than a bill brought forward by the Government side.

So far as these articles are concerned I can say that it is a great pity that Government ever attached any importance to these scribblers who do not even know to write a decent criticism in a decent language. Is it a fault of ours that we get old? Is it a sin to be old? I can understand a man being attacked for his action, but I cannot understand the meaning of calling a man an old man. Why? Is it such a degradation? If there is one thing honoured in this country, it is old age. No country respects the old man and the old woman, if you like, (*laughter*) as the people of this country. I say it is scurrilous that such things should appear in a paper. I am very sorry that a Government, constituted so strongly as ours and possessing an abundance of intelligence and common sense, should have con-

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sidered that action is necessary to safeguard your honesty or to protect your self-respect. In all such things it would be better to ignore completely and entirely and leave the mischief-makers in their own way. Are you not giving an indirect way of advertisement to these papers which they do not deserve?

Let me at the same time say that there are a number of papers which are being conducted on proper lines but these able papers are being conducted at a loss. Papers conducted decently in this country are a loss to the owners. Only this kind of gutter-press will have any kind of subscribers. I wish these remarks are only applicable to such gutter-presses and it should not be misunderstood as applying to all papers. I am not saying this because I am attacked by the presses, but I say that a gentleman will welcome as many attacks as they will.

Mr. K. G. Nayar.—Sir, I wish to speak a few words on this motion mainly on the ground of principle involved and more especially after hearing the Hon'ble Law Member on the matters involved in this case. I am not here to champion the cause of any particular paper or to defend any particular Government servant or to side with any party in this matter, except it be to bring to the notice of this House the serious principle of law involved therein. You will see from the notice which the Hon'ble mover has read before this House that at one stage it could be taken as coming under a particular section of the Criminal Procedure Code. The Hon'ble the Law Member, seeing that that position is not tenable, falls back upon an omnibus section corresponding to section 144 of the British Code which, for all apparent purposes, can never be applied with much reasoning to the facts of this case. On that one principle alone I wish to bring to the notice of this House that in whatever way a press is criticising the private or the public policy which a particular individual follows, when he is holding a responsible position in the State, such matters ought not to be made, if at all at any time they have had any private grudge, to be a proper basis for launching a public prosecution. If one reads this article, which has just now come into my hands, if one peruses it carefully, apart from certain small expressions—or rather I would just say, expressions which do not carry with them much dignity—(I am not prepared to condemn the expressions as the Hon'ble Member for Cheruvuruthi has done, although it may not be quite in taste to have used those expressions.) I can say that apart from the general criticism which one can level against this article, I find nothing objectionable which a reasonable Government would take as the basis for any action against it.

Sir, this article deals with one action of the then acting Diwan when he was occupying the Presidential Chair of this

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House, relating to a particular matter when some of the Hon'ble Members of this House were discussing a question relating to an all-India problem that is being agitated throughout the whole of India now. In that connection one of our Hon'ble colleagues on the floor of this House used the expression "Temple entry" and another Member also imitated the same, when the Hon'ble President ruled out that such an expression cannot be used on the floor of this House. Can an acting Diwan go further than this to check the privileges of the Hon'ble Members of this House? I may bring to the notice of this House.....

Mr. C. J. Mathew.—It is not correct to say that the President ruled out that the expression cannot be used.

President.—Under the Standing Orders the President's ruling is not to be questioned.

Mr. K. G. Nayar.—Quite so. I bow to your ruling. I was not questioning about the ruling of the Chair but only was trying to impress upon the House that, as a newspaper, it had something to do with that ruling given by the President. No Hon'ble Member of this House can question it and we are not questioning it. Just when a public press finds that the expression "Temple entry", mentioned by some Hon'ble Members of this House, was not permitted to be used by the Hon'ble President, is it after all a great sin on the part of the press to publish it in the press and give wide publicity to that? That seems to be the tenor of this article. What would be the general impression created in the public mind—I mean, a stranger who happens to read this article and see the whole context and the meaning underlying that criticism? Well, Sir, is it not a matter of common knowledge that even His Excellency the Viceroy, in the things that he is now doing, is being seriously criticised in the press and even you see cartoons published in the papers, whereby you see Members of Parliament dragged in and all sorts of physical features attributed to them and saluting each other, etc? If the men who are affected by these criticisms begin to take it as a personal insult, I only wish to impress upon those responsible that in such matters, if they move in such a fashion, it is likely that the public at large may misunderstand and think that there is a personal tinge in all these affairs. Criticisms of men and criticisms of administration are desirable things in themselves. Criticisms will be undesirable only if they wantonly or deliberately indulge in unfair language. Leaving apart the expressions which are rather out of taste, and for which I am not championing the press at all, and considering the whole tenor of the article, I do not think there is much in it to need a prosecution or a warning. If you read the article which is published in

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the paper, and if the Hon'ble the Law Member still maintains that it provokes the breach of the peace, and but for the issuing of this notice there would have been rioting and a breach of the peace, I have nothing to say. I only want to impress upon the attention of the Government on the floor of this House that the action taken by them is not justifiable, under the sections quoted by the Hon'ble the Law Member. It does not support the launching of a prosecution or the issuing of a notice, and the dramatic way in which you dropped it subsequently leads me to confirm that view. Are you not bound to ask the people, who thought that it was such a serious matter as to issue such a notice, what happened subsequent to the issue of the notice? One cannot quite understand the attitude of the Government. The whole matter comes to an abrupt close and an advice is administered to them as the Hon'ble Member said, "Hereafter clothe your language in a moderate tone". This is none of the function of the Government. If you have got a case of a clear violation of the law committed by that paper, you ought to have taken the matter to the court. There is an independent judiciary and the court, in adjudicating upon the matter, would have come to a definite conclusion. If the men appointed are doing this sort of thing and if they are allowed to go on by the Government, there is no likelihood of having any responsible press in the State. In this matter a serious principle of law has been violated. The District Magistrate issues notice to the parties and they were asked to use a milder language and the matter is abruptly dropped. Is it consistent with the dignity and self-respect of the Government and the subjects to be involved in such charges, as has been done in this case?

Mr. A. Sankara Poduval.—Sir, I wish to add a few words to this discussion in an impartial way. I do not propose to take sides.

Mr. George Chakyamuri.—You will always do like that.

Mr. A. Sankara Poduval.—I think it necessary in the interests of the State and more especially in the interest of the Fourth Estate, to make a few observations with regard to this question. I am a lover of the liberty of the press but at the same time I am dead against the press being used to serve sinister purposes. Above all, what I want to impress upon this House and also the Government is that in the issue of such notices under the Criminal Procedure Code, scrupulous care must be taken in ascertaining whether action is really called for. If the Government be satisfied that it is necessary in the interests of the State to take action then there is no justification in resorting to half measures and mincing matters. Proceedings must be initiated and efficiently conducted to the very finish. In

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regard to the powers of the District Magistrate also, Government would be pleased to see that he exercises his discretion properly. Government should not be indulgent to a District Magistrate who would make use of the sections in a manner not warranted by law. In this particular instance it looks rather undignified that proceedings should have been abruptly brought to an end. I think it was the bounden duty of Government to take such departmental action against the District Magistrate as it deemed proper. Speaking on this subject, I do not think this article with regard to which the District Magistrate has taken action deserves it, at all, and the action taken by the District Magistrate ends in a very unseemingly manner. The Government Advocate found it very difficult to justify the action of the District Magistrate, as I was able to gather from his speech. But whatever that be, inasmuch as the District Magistrate is not present here personally to defend himself, I do not want to say more about it. Government would in future be pleased to safeguard the interests of the press and try to do all it can to promote the healthy development of the press in the State and see that Editors, Printers and Managers of newspapers are not unnecessarily hauled up.

Mr. P. Raman Menon.—Sir, I rise to oppose the motion. My attitude is not dictated by the merits and demerits of the article in question. I oppose the motion on the principle that this House is not the proper place to discuss and decide whether a particular article is objectionable or not. It is not the function of the Legislative Council to examine and decide whether the action of the District Magistrate was with or without jurisdiction. If the District Magistrate proceeded without jurisdiction, the proper remedy is to get it quashed by taking appropriate proceedings, either in appeal or in revision. There is no use of rushing to the Legislative Council. It is very easy to make it appear that the action of the District Magistrate was high-handed. But are we in possession of all the facts? Are the three issues read in extenso here? The Hon'ble mover of the cut motion has read only a few passages from one of the articles in one of the issues? If the District Magistrate issued the notice before getting proper sanction, it may be illegal. But what is the remedy? So many cases are decided wrongly by the District Magistrate and for the matter of that, by the other courts as well. The party has to get such orders vacated by the appellate court.

There is one more point, I wish to point out. The Hon'ble mover has confined his attention to one particular case. When I read the cut motion, I was under the impression that there were a series of such cases. If that were the case, then we can understand a cut motion of this nature, just to bring the objec-

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tionable practice to the notice of the Government. In my humble view this is not the proper place to discuss the merits of any particular order passed by the District Magistrate. I therefore strongly oppose the motion.

Mr. George Chakyamuri.—I cannot understand the way in which he has dealt with the subject. I fear the Hon'ble Member has not understood the fact that the District Magistrate performs two functions—executive as well as judicial. All the errors committed by him in the judicial capacity will be appealed to the Chief Court and rectified. This is an action taken in his executive capacity and is within the powers of this House to discuss.

Mr. P. Raman Menon.—Are there no revision powers to the Chief Court?

Mr. George Chakyamuri.—This is an action taken by the District Magistrate in his executive capacity and this House has every right to discuss it. We are discussing the propriety of the District Magistrate issuing a notice to the proprietor of a press and thereby attempting to curtail the liberty of the press. That was an act taken in his executive capacity. We are not questioning the decision of the District Magistrate. We only say that the District Magistrate has absolutely no business to put him to unnecessary trouble and to advise him how to conduct the paper hereafter. The District Magistrate has posed himself as the legal advisor of all papers of this State. He has absolutely no business to do it. If it was a case in which the District Magistrate called up a man and found him guilty or not guilty, this House has no right to interfere.

Mr. K. Ayyappan.—Why not?

Mr. George Chakyamuri.—I respectfully beg to point out that the Hon'ble Member for Trippunittura has widely missed the point and I think this is a fit matter for this House to interfere, and I certainly endorse every word that is stated by the Hon'ble mover. It is a frivolous and vexatious act on the part of the District Magistrate especially when the acting Diwan has been telling him not to do it. With these observations I support the motion.

Mr. I. N. Menon.—Sir, on a point of information. I have a little doubt. I am told that the lawyers care for decisions of other courts as case law in defending cases. Can a vote of this House also be quoted in a judicial court as case law?

Dr. A. R. Menon.—I don't think so.

Mr. A. Sankara Menon.—May I know whether any section of the Criminal Procedure Code is quoted in the notice issued?

Mr. K. Achyuta Menon.—I find no section.

Mr. M. Krishna Menon.—It is wrong to say that the District Magistrate was acting in his executive capacity when he

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issued a notice to show cause why action should not be taken. His action was clearly under the Criminal Procedure Code and his ignorance of the law made him to issue such a notice without quoting the section. In this matter the Law Member had to fall back upon section 125. Even then this notice is wrong, because the notice must be " either to do an act or to abstain from doing an act under Section so and so; if you are really aggrieved you must come and complain. ' That is the notice that ought to have been issued under section 125. This is neither under section 125 nor under section 93. This is a notice for which there is no provision in the Criminal Procedure Code, and I can assert authoritatively that there is no provision to issue such a notice by the District Magistrate.

In this connection I may be permitted to state the reason for such a notice also. Magistrates are appointed Munsiffs and when they forget the Criminal law they are appointed as the Registration Superintendent. When they forget all the laws they are appointed as District Magistrates. No wonder that they issue such notice. It is rather too late in the day for these old men to study the Criminal Procedure Codes. I cannot say very old men. I don't care whether they are in my company, though I wish to be young. It is a mistake that has been pointed out by me on more than one occasion. The District Magistrates must be somebody who had no opportunity to forget all the Criminal laws. The Government should not give them an opportunity to forget. After three or four months they go for some other job and again come back as District Magistrate, again forgetting what little they picked up during these three or four months. And one fine morning that District Magistrate finds a paper abusing an acting Diwan. Naturally he thinks that he must do something. He asks the clerk to issue a notice. The clerk writes a notice and he signs it, whether there is any provision or not. Subsequently when the man appears—most probably he will be appearing with a vakil, he asks, under what section did you issue this notice. The District Magistrate calls the clerk and begins to turn over the pages of the Criminal Procedure Code. He will not find any section. Then he will turn to the party and say, "anyhow, I have issued this notice. Take here hereafter. Don't do anything further. Now you may go." That is what really happened in this matter. I do not think there is anything to make much fuss in this Council of the Swatantran paper. Similar things happen every day in one's own experience. So many notices are issued without any section, and when there is no provision they only say ' please keep quiet.' The whole thing is dropped or recorded for ever.

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So, for such matters if we have to discuss the capacity of the District Magistrate or the conduct of the District Magistrate, I say it will be a waste of a lot of precious time of this Council.

Mr. C. A. Ouseph.—I appeared for one of the editors before the District Magistrate. I think, therefore, I must say a word regarding what took place. I was myself perturbed when I read the notice and could not understand why those gentlemen were hauled up. I went to the District Magistrate and told him that the persons who were hauled up did not know why the notices had been served upon them. The notices did not show which were the articles complained of. They could not know what they had to explain. Then I plainly told the District Magistrate that he was inviting trouble for himself. I said he had no power to issue such a notice. I was able to understand, from the little conversation that I had with him, that he was helpless in the matter. Perhaps he may have misunderstood the advice given to him. In any case, Sir, the mischief had been done. And then I had a part in suggesting the way in which the matter could best be ended. The District Magistrate adviced the editors to be moderate in their tone. Now, this sort of teasing newspaper-men unnecessarily should never be resorted to by the District Magistrate, whether he understands or misunderstands or appreciates or misappreciates the advice given by the Diwan.

Mr. K. Achyuta Menon.—Sir, I rise to oppose the motion. The questions before the House, in my opinion, are just two: whether the District Magistrate's action was illegal and if it was illegal, whether it was a violation of the legitimate privileges of the press. It seems to me that there is some confusion in the minds of the Hon'ble Members on what I said regarding the position in law. I said the District Magistrate has got a specific action to take under section 93 and if he takes action under section 93 he has to do it under order of the Government, that is to say, the action under section 93 is to issue a notice and that a specific one *viz.*, of calling upon the persons to show cause why they should not furnish a bond with or without sureties. That is the action taken under section 93. That action does not appear to have been taken by the District Magistrate in this case. What he has taken is simply to ask the parties to show cause why he should not take action under section 93.

Mr. A. Sankara Menon.—Under what law can he take action?

Mr. K. Achyuta Menon.—Under what law is it stated that he cannot take action? The argument is, so far as it ap-

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pears to me that if there is no specific section that can be quoted, any action taken by the District Magistrate is illegal.

Mr. George Chakyamuri.—Can he do anything that he is not forbidden to do?

Mr. K. Achyuta Menon.—So far as I know the action taken by the District Magistrate to show cause why he should not proceed and take action under section 93 does not appear to be indefensible in law.

Mr. M. Krishna Menon.—Any action should not be taken under section 93.

Mr. K. Achyuta Menon.—It was his sense of fair justice that made him ask whether the articles are really defamatory and whether his view is correct or not. An opportunity was given to the editors concerned to put forward their case before the District Magistrate and if the District Magistrate was satisfied that there was nothing whatsoever he would not have taken action.

Mr. K. G. Nayar.—Is not the Code of Criminal Procedure the only code that governs the procedure?

Mr. K. Achyuta Menon.—No controversy on that matter. So far as I know the Criminal Procedure Code does not prohibit the District Magistrate to invite parties and hear them as to what they have to say. For instance, I may cite the question of sanction. Does the Criminal Procedure Code say that preliminary enquiry should be conducted before sanction is granted? Are not Criminal lawyers aware of the usual warning "ൈക്കിത"? Does the Criminal Procedure Code contain any provision for that? Those are advisory orders passed by the District Magistrate in his quasi-judicial functions, such as, the paramount duty of preserving the public peace. The District Magistrate in this case was fair enough to issue a notice asking the parties to show cause why they should not be prosecuted? Is that a crime? I may assure the Hon'ble Member here that the Government are anxious, as much as they are, to respect the rights and privileges of respectable and responsible journalism. But it is also the sacred duty of Government to preserve inviolate of its own rights and those of its officers and those of the general public. There are two safeguards, one under the Press Act, i.e., the persons who are responsible for the publication of the paper have to send two copies to the District Magistrate and another is that provision made for action to be taken under section 93. Why is it that two copies are sent, if the District Magistrate is not expected to read them? If in his opinion a prima facie case is made out under section 93, he either takes action under section 93 or, as in this case, he asks the parties to convince him

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that it is not a fit case for action under section 93, and that is what took place here. I am not aware of the extra judicial incidents narrated by the Hon'ble Member for Anthikad. The records show that one editor promised that he will have to do nothing more and that another editor promised to moderate the tone. That is what I find here.

Mr. C. A. Ouseph.—He said he would moderate hereafter.

Mr. K. Achyuta Menon.—I have got the letter of the District Magistrate. Mr. T. K. Sankaran confessed that he would not have to do anything more with the paper. He put in a declaration to that effect. Mr. K. S. Panickar agreed to moderate the tone of the article in future and be careful.

Mr. M. K. Raman.—Was a written statement taken from him?

Mr. K. Achyuta Menon.—The statement is not here. He was examined.

Dr. A. R. Menon.—Has he signed the paper.

Mr. K. Achyuta Menon.—I do not know.

Mr. K. Ayyappan.—Did he make a confession?

Mr. K. Achyuta Menon.—It is stated 'that he confessed that he will have nothing to do with the paper'.

Mr. M. Krishna Menon.—Is it a judicial enquiry or executive enquiry? What sort of enquiry was it?

Mr. K. Achyuta Menon.—I cannot say it was a judicial enquiry in all its aspects. It was an enquiry; you may call it a quasi-judicial enquiry.

Mr. M. Krishna Menon.—Is that enquiry under the Criminal Procedure Code?

Mr. K. Achyuta Menon.—It still comes under the powers of the District Magistrate.

Mr. M. Krishna Menon.—Under what section?

Mr. K. Achyuta Menon.—Under section 93 and the section which asks the Magistrate to take all necessary steps to prevent breach of peace. I can only say, in conclusion, that the complaint now made is a complaint that those editors themselves have not made.

Mr. M. K. Raman.—The position of the Government Advocate seems not very sound. He is trying to defend a position most untenable. I may submit to the House, that in cases where any seditious articles or articles which have got a tendency to create communal hatred are published, the move for prosecution must initiate from the Government. Section 93 prohibits that the Magistrate should take action directly. It must be taken only by the Government. The Government have

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their executive officers. The Government may ask the District Magistrate also, no doubt, to launch a complaint. In that case, the District Magistrate will be doing only executive work. But there must be a move from the Government. Government may also ask the Police to charge a person. The trial then will be before the District Magistrate. The only provision in law which entitles the District Magistrate to issue a prosecution notice to papers and journals is section 93. Section 125 has absolutely no application at all. As was already pointed out by the Member for Irinjalakkuda, section 125 is to refrain a person from doing a particular act or for making him do a particular act in urgent cases of nuisance, etc. It corresponds to section 144 of the British Criminal Procedure Code. We have absolutely nothing to do with that here. In the notice it is stated that these articles have got a tendency to create ill-feeling between communities and that they are seditious. So, the only provision under law by which the District Magistrate is entiled to act will be section 93 and the learned Government Advocate himself said that this is not a notice issued under section 93 and there is no other provision. It is evidently a wrong step taken by the District Magistrate and somehow or other he wanted to put a stop to this paper. But by his ignorance he bungled in every step. As a matter of fact, one of the editors said that he would have nothing to do with the papers, if such is the action of the magistracy. He did not want to be hauld up before the court like this for nothing. Evidently he withdrew from the scene. Naturally every respectable man will try to avoid such unpleasant affairs. The other gentleman said that he had not been writing any seditious matter and that he would not write hereafter. Again there seems to be some confusion whether this is an act done by the District Magistrate in his executive capacity or judicial capacity. I can understand, when a thing is done in his judicial capacity, the proper place for appeal or revision is the Chief Court and that by the aggrieved party. Here I brought this motion before this House to invite the attention of this House to the high handed way in which the District Magistrate has mischievously and without knowing procedure interfered with the liberty of the press. I had seen the article before. Only I happened to see them after this hubbub was made. I can understand the aggrieved party going to the Chief Court. I am not the aggrieved party. I bring this motion to criticise a public policy. Personally I have no complaint. But I deem it my duty when I see an officer of the Government, armed with vast powers, not knowing how to use them, uses them mischievously to the annoyance of the public press and

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through the press to the public at large. The District Magistrate Mr. Hrihara Ayyar's procedure was, to put it briefly, absurd from beginning to end. One instance now is brought to our notice and it is quite sufficient. Probably other instances have not been brought to our notice. Again one Member said that I have not read all the articles in the paper. I can do it, but I will be simply wasting the time of the House if I read all the 3 issues of the paper here. I wanted to find out what the objectionable matter was. From the notice itself I could not find. I find in reading that this is the only article which has any reference to the Government. All the rest are about other matters. Now, Sir, I have placed the whole matter before this House. I am not interested in your doing one way or the other. It is for the Government to see what they should do. I have placed the whole matter. I am not also interested in pressing this matter to a division. Enough has been said by the Members, and I may be permitted to withdraw my motion.

Motion withdrawn with leave of the House.

Motion No. 4.

Mr. A. Sankara Poduval.—Before making this motion, may I know whether there is any immediate prospect of the appointment of a special Judge in the Chief Court?

Rama Varmha Tampuran.—Yes, very soon.

Mr. A. Sankara Poduval.—I don't move it.

Hence the following motion was considered withdrawn.

Mr. A Sankara Poduval.—"*To reduce the allotment of Rs. 20 under 16—Law and Justice by Re. 1.*"

Motion No. 5.

Mr. A. Sankara Poduval.—I rise to move the following cut motion:—"*To reduce the allotment of Rs. 20 under 16—Law and Justice by Re. 1.*" This is to draw the attention of the Government to the hardship and injustice that would be caused by the recent Government Order, giving preference to graduates over non-graduates already in service in respect of appointments in the Judicial Department in the lower grades. The occasion for this arose from the modification of Standing Order No. 17 by a recent Government Order. Standing Order No. 17 runs thus:—"Subject to the consideration of honesty and efficiency, promotions should be given as a rule in the order of seniority but no official should simply, on the ground of seniority in service, be appointed to a post the duties of which he is not competent to discharge." I understand that this order was modified by a very recent order of Government which lays down that 50

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per cent of the appointments in the intervening grades bearing a salary of Rs. 25—80 be given to graduates, over-riding the claims of "passed officers" in service, who are but undergraduates.

First of all, this is a dubious order. What is meant by 50 per cent is not quite clear. Whether every alternative appointment should be given to a graduate or whether on a calculation of the total strength of subordinates in an office, 50 per cent should be graduates and promotions blocked till the percentage is reached is not very clear. This alteration of the Standing Order works a great hardship upon the undergraduates already in service, and that is against the repeated orders issued by Government previously. I may refer to the D. P. in R. O. C. 1395/03, dated 19th March 1928, where a similar question arose for decision. One Mr. Sambasiva Ayyar, an undergraduate, was superseded by one Mr. Govinda Menon, a graduate. The D. P. reads thus :—"L. N. Sambasiva Ayyar is entitled to succeed on his complaint against the appointment of Govinda Menon as clerk on Rs.30. The question is not that preference should be given to the person having better qualification. The real point to be noted is that the man having a senior standing is possessed of the requisite qualification. If the petitioner has the necessary qualifications his claim must prevail even though one having a higher qualification is available."

Again the matter came up for consideration before the Government during the present Diwan's term and D. P. Dis. 1690/D/06 (Separate Revenue), dated 11th February 1931 was issued. The aforesaid interpretation of Standing Order 17 by Diwan Mr. T. S. Narayana Ayyar was confirmed.

"The Diwan has had occasion to observe that even in the lower grades undergraduates are sometimes superseded by graduates with less service. The Diwan does not think that graduates should thus be put over the heads of undergraduates already in service in grades the work of which undergraduates can satisfactorily discharge."

That I submit is, a wholesome rule, and the deviation from it, in hot haste, is as much to be deplored as it deserves to be condemned by this House. Now, undergraduates have entered service knowing full well what their prospects would be. The question is whether an undergraduate is competent to discharge the duties expected of him, and not whether graduates would not be available, either graduates-in-law or graduates-in-arts. These people are allowed to rise only to a certain standard. Why half the total number of available posts to undergraduates should be ear-marked in future for graduates, and why the settled rule should be suddenly changed during the permanent Diwan's absence, it is difficult to understand. Graduates of course may have an opening in service, but it should be on the same lines as undergraduates, if they prefer to enter a depart-

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ment wherein undergraduates have already been assured of a certain scale of salary. Now I don't find any justification for this innovation. It is an unrighteous act. In regard to new appointments it may be a different question altogether. But in regard to undergraduates already in service with the expectation of rising to a certain level in a scale available to them, this modification of Standing Order 17 is certainly uncalled for. It is unrighteous, it is wrong on principle, to have done so.

Mr. Joseph Pettah.—Sir, what is the position of Government in this matter ?

Mr. K. Achyuta Menon.—I oppose this motion. The Government action on this matter was taken on the recommendation of the Judges of the Chief Court who possess intimate knowledge of the working of undergraduates and facilities for observation of the work of the subordinate civil judicial staff. It was pointed out to the Government that there was considerable deterioration in the quality and tone of the work turned out by the ministerial staff of the civil judicial department; as a result of the department being wholly manned by unpassed hands and by persons of only school final and or matriculation qualifications. That was one thing. It was next pointed out to the Government that the practice of indiscriminate promotion to higher posts in consideration of service alone, tends to create a consciousness in them that they could get promotions irrespective of the work turned out; and in the interest of efficiency, the Judges thought that a higher standard of efficiency can be had by entertaining persons with higher qualifications. That was the second consideration.

It was again pointed out that in the recent re-organisation of the department the pay of the clerical staff was raised with a view to attract the right type of men with superior qualifications and consequently there were a number of applications from graduates-in-arts and even graduates-in-law and obviously these people could not be entertained in the lowest ranks where their chances of promotion were nill.

Then again it is a mistake to think that this is a preference. It is only a well-directed effort to make the department more efficient. I may also be permitted to point out that, above all, that proposal is one in strict accordance with the recommendation of the Special Finance Committee. I may refer to para 11 (d) of that report.

Dr. A. R. Menon.—We have not got a copy of that. Please read it.

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Mr. K. Achyuta Menon.—Para 11 (d): "The Committee further recommends that in the recruitment of officers on Rs. 25 and upwards preference should be given to graduates."

Mr. A. Sankara Poduval.—Those already in service ?

Mr. K. Achyuta Menon.—In the recruitment preference should be given to graduates.

Mr. A. Sankara Menon.—That cannot apply.

Mr. K. Achyuta Menon.—Recruitment to higher offices.

Mr. K. Ayyappan.—Promotion is also recruitment.

Mr. M. K. Raman.—Does it not include fresh recruitment ?

Mr. K. Achyuta Menon.—It includes fresh recruitments also. At any rate there are no indications that it is confined to recruitments for the first time. As I said, even now it is not correct to say that the chances of promtion are absolutely shut out, because it is the 50 per cent rule that is applied. 50 per cent of the posts will be available to persons already in service and 50 per cent to graduates-in-arts and graduates-in-law. The rule is to be worked out in that proportion. I place this consideration before this House, to a certain extent in the confident expectation, that the House will take a fair view.

Dr. A. R. Menon.—Is it the view of the Government that these people were found to be incompetent as clerks only lately? These clerks were working for years is this department.

Mr. K. Achyuta Menon.—It was pointed out that there has been a considerable deterioration in the quality and tone of the work turned out by them.

Dr. A. R. Menon.—There is a general fall in the tone and the quality of the work. That it is due to the incapacity of these officers was found out by the Government only lately? Is it not so ? I understand that they were in the department for a number of years and they were keeping this high tone till 2 months ago.

Mr. K. Achyuta Menon.—I am not in a position to say more.

Dr. A. R. Menon.—Why the Government came to the conclusion that undergraduates who were discharging their duties to the entire satisfaction of the Hon'ble Judges are not now so doing?

Mr. K. Achyata Menon.—You are wrong in thinking that it was Government. It was pointed out by persons who ought to know that there has been deterioration there.

The House rose for lunch at 2 p. m. and met again at 3 p. m. with the President in the Chair.

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Dr. A. R. Menon.—Were there any graduate in that department as clerks for the last 20 years?

Mr. K. Achyuta Menon.—No. There has been none.

Dr. A. R. Menon.—And the Chief Court has been getting on pretty well without any graduates as clerks till now. Was it not so?

Rama Varmha Tampuran.—On that point the whole question turns.

Mr. M. K. Raman.—How many undergraduates were there?

Rama Varmha Tampuran.—There must have been a pretty large number.

Mr. M. K. Raman.—Number, please.

Rama Varmha Tampuran.—I have not got the exact number.

Mr. P. Kumaran Ezhuthassan.—On a point of information. Were there complaints or reports from Munsiffs that their staff was not good ?

Rama Varmha Tampuran—We have no information whether the Munsiffs have complained. But the Judges of the Chief Court have raised that question.

Mr. P. Kumaran Ezhuthassan.—On what was the report of the Chief Court based, whether it was their personal experience, when they went out on inspection or whether it was based on complaints from subordinate officers?

Rama Varmha Tampuran.—The Judges might have observed it in the course of their administrative duties.

Mr. M. K. Raman.—Were there graduate clerks in the Magisterial Department and in the subordinate courts of the Judicial Department ?

Rama Varmha Tampuran.—I think there are one or two graduate clerks in the Magisterial Department.

Mr. M. K. Raman.—How many years' service have they put in ?

Rama Varmha Tampuran.—I remember one of them has put in 7 or8 years' service.

Mr. M. A. Chakko.—We are speaking about the Civil Judicial Department.

Mr. M. K. Raman.—Is there not a clerk who has put in 14 years' service?

President.—The motion is about the Civil Judicial Department.

Mr. M. A. Chakko.—Sir, I rise to oppose this motion. The motion before the House—the matter we have to consider—is whether theChief Court's view that the ministerial department of the Civil Judicial line has to be improved by infusion of new blood—yes—by effecting a monkey gland operation, as it

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were, to get it rejuvenated, is right. It has been getting antiquated for a pretty long time. The State service itself—if we make a review, if we cast our eyes behind and see what it was years ago—was not as it is since the last 2 or three decades. Step by step reorganisations and modifications were made to improve the service in every one of its branches.

It is not necessary for me to enumerate all that has been done in other departments. But I may just observe that a good deal has been and good results have been attained. To begin with, the Revenue Department has been considerably improved by means of the reorganisation that was made at the time of the revenue settlement or immediately after that. That was in 1082, or 83. The old Parvathiakarans and Menons who were not English-knowing and who had no knowledge of the accounts of the new method were all wiped off and new men were put in along with the Revenue Inspectors. These and other arrangements were made with regard to the Revenue Department. Some time later the Police Department was taken up. The old Head Constable Station House Officers were all wiped off. Then it was laid down that only English-knowing and passed men should hereafter be appointed as investigating officers. Subsequently it was made a rule that graduates alone should be made Sub-Inspectors and that rule is, I think, observed with very few exceptions at the present day. Then the Excise Department reorganisation was taken up. A good deal of old inefficient hands were wiped off and new order of things was inaugurated, and we have reason to believe that things are going on and will go on efficiently also.

There has been a cry that the Civil Judicial establishments especially, the ministerial side, is giving a lot of trouble to the litigant public who have occasion to have their services in several ways. To begin with, when a plaint is lodged before the court summonses have to be issued and then subsequent processes. Most of these have to be done by the ministerial department and only when the case is matured for hearing, the presiding Judge or Munsiff has to take it up and begin what is called Judicial proceedings or trial in earnest. After the disposal of the case, execution proceedings have to be carried on. Without the execution of the decree the party who goes to the court and prays for relief gets very little advantage for having gone there. In the execution proceedings again the ministerial officers have to act till the last stage of the execution when the court has to enforce the decree by sending out a commissioner or amin to the spot. There also the difficulty is felt by the general public that things are not being done satisfactorily.

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This state of circumstances has been continuing for a pretty long time ; and the man in the street feels that he does not get his monies worth for having paid and kept these officers. I should think that this complaint has reached the ears of the Judges of the Chief Court and they might, in all seriousness, have thought that something must be done to alleviate the suffering of the people. And deliberating over this matter, finally they came to hold that the old system has to be improved, that what is called a monkey gland operation is necessary for rejuvenating the Department. We have heard this morning that old men are not always acceptable to the people. So they want old methods also to be removed to give place to new order of things. This is the main reason, I think, for this modification that has been incorporated in the Standing Orders, about which we have this cut motion.

Now we have to consider the question in another aspect. It is a tug-of-war as it were, between graduates and undergraduates. Individually a particular undergraduate may be of greater efficiency and caliber than a particular graduate. But taking, as a class, in the aggregate, I should think if we take 100 graduates and 100 undergraduates and put them side by side for comparison, we will notice a marked difference not only regarding their intelligence, ability and capacity but also in respect of their perseverance, self-respect and all that. Now if we are just asked to say from which rank we are going to entertain our public servants, which side should we turn? Whether we should turn to the right side and pick up some men from these graduates who are waiting for their chance or whether we should turn to the left and have the pick from the undergraduates who are pressing for preference? That is one way of putting it. There is an important question. Simply for the sake of efficiency are we to sacrifice the claims and hopes and expectations of the clerks and subordinates who are already in service? There comes the rub. Therefore, the Government and the Chief Court, I should think, have given adequate consideration to this aspect of the question and decided half and half. 50 per cent of the appointments should go by promotion and 50 per cent should go by selection of new hands from the rank of graduates who are ready offering their services. In these circumstances I should think it would be rather not very difficult for this House to give its verdict which side they should vote for. It may be a little hard on the existing servants who have been loyally serving the Government for a long time. Corruption has gradually set in in the rank; their long existence in this atmosphere of corruption has deteriorated their power to serve properly.

Mr. A. Sankara Poduval.—Why! Only 50 per cent corruption?

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Mr. M. A. Chakko.—Perhaps more. The force of corruption or the element of corruption has permeated more than 50 per cent. Therefore, on these grounds, I think, this motion has to be opposed and the Government's proposal to improve the Judicial Department, especially the ministerial side of the Department, must be applauded and approved by this House.

Mr. E. Ikkanda Warriar.—Sir, I rise to support this motion. The main argument advanced by the Law Member is that the new order would create efficiency in the department. But I beg to differ from him, for, I doubt whether it would not create inefficiency in that department by creating discontent in the existing staff. (*Hear, hear*). There are a very large number of people who have been doing very efficient and useful work; and the main question that we have to consider is whether the undergraduates can discharge their work satisfactorily. We are here discussing only the posts of clerks which carry a pay of Rs. 25—40. I do not think there will be any graduate who will do the work better than the undergraduate. I highly deprecate this form of changing rules one after the other. (*Hear, hear*). It was only very recently that an order was passed and I think that was a very wholesome order and that was referred to by the Hon'ble mover himself. This is that order:—"The Diwan has had occasion to observe that even in the lower grades undergraduates are sometimes superseded by graduates with less service. The Diwan does not think that graduates should thus be put over the heads of undergraduates already in service in grades the work of which undergraduates can satisfactorily discharge". That is the most important point that we have to consider and I think this order was passed only a year or two ago.

Mr. A. Sankara Poduval.—In 1931.

Mr. E. Ikkanda Warriar.—If we are going to change these rules one after the other in rapid succession the whole service will become discontented. They do not know where they are. It is highly necessary that we should have definite rules for recruitment into service and also for regulating promotions. I hope Hon'ble Members have noted this morning, during the question hour, a hard case which I had referred to. On account of the change of rules a certain gentleman occupying a Registrar's post had to give his place to three persons below him. If we change these rules so frequently that the existing service becomes discontented it will only increase the inefficiency of the department. For these reasons, I whole-heartedly support the motion.

മിസ്റ്റർ കെ. അയ്യപ്പൻ.—ഈ പുതിയ ഓർഡറിനു് ഒരു ചരിത്രമുണ്ടു്. ചീഫ് കോടതിയിൽ കുറെമുമ്പു പലരുടേയും അവകാശങ്ങൾ അവഗണിച്ചു് ഒരുത്തനെ പുതുതായിനിയമിച്ചുയുണ്ടായി.

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അ നിയമനം കിട്ടേണ്ടിയിരുന്ന ആൾ ഇന്നും പുറത്തുനില്ക്കുകയാണ്. ഈ ഓർഡർപ്രകാരമുള്ള ഗുണവും ആദ്യം അനുഭവപ്പെട്ടതു് മുമ്പ് നിയമിച്ചു എന്നുപറഞ്ഞ ആൾക്കാണതെ. പ്രത്യേക ആളുകൾക്കുവേണ്ടി സാമാന്യനിയമങ്ങൾ ഉണ്ടാക്കുന്ന നയം നല്ലതല്ല. അണ്ടർഗ്രാഡുവേറ്റുകളെക്കൊണ്ടു ചെയ്യിക്കാവുന്ന ജോലികളിൽ അവക്കുണ്ടാവുന്നതു കയറാം അവക്കുതന്നെ കൊടുക്കണം. അതിൽ ഗ്രാഡുവേറ്റുകളെ കൊണ്ടുവന്നുവെച്ചു് അവരുടെ കയറ്റത്തിനുള്ള മാർഗ്ഗം തടയുന്നതു് കഷ്ടമാണ്. ഗ്രാഡുവേറ്റുകൾക്കു് ജോലിയുണ്ടാക്കാൻവേണ്ടി ഗവൺമെൻറു് ഈ നയം എടുക്കരുതു്. ഗ്രാഡുവേറ്റുകൾ മുരുങ്ങിയ തമ്പളത്തിൻ സപ്ലീസിൽ കയറിയാൽ അവിടെ അസംതൃപ്തരായി കഴിയേണ്ടിവരും. അസംതൃപ്തി അവസാനം അഴിമതിക്കു കാരണവുമാകും. ഏതായാലും ഗ്രാഡുവേറ്റുകൾക്കെല്ലാം ജോലികൊടുപ്പാൻ ഗവൺമെൻറിനു സാധിക്കയില്ല: അതു അധികം ഗ്രാഡുവേറ്റുകൾ സപ്ലീസിൽ പ്രവേശിച്ചു അസംതൃപ്തരായി കഴിയുന്നതിലും നല്ലതു് ഒരു ജോലിയും ഇല്ലാതെ പുറത്തുകടന്നു വിപ്ലവമുണ്ടാക്കയാണു്. അങ്ങിനെയായാൽ അവർ രാജ്യത്തു് പരിഷ്കാരത്തിനു് കാരണഭൂതരാകും.

Dr. A. R. Menon.—We are not against introducing any new change or improving any department by infusing new blood, as was suggested by my friend sitting over there. What is the position here? There are a number of clerks who are drawing Rs. 20—25, who are all undergraduates but passed hands and whose highest expectation in this world is to rise to Rs. 40 and a few to Rs. 60, the majority positively to Rs. 40 only. I am asking in all seriousness, is it worthwhile that the Government should not take into consideration the poor prospects of their subordinates, by simply telling us that they have found within 2 or 3 weeks that the work turned out by these poor clerks is not satisfactoryand that they are completely inefficient'? Are you going to tell us that you have found them absolutely inefficient? Would any one in this House believe this statement? Are we not also endowed with a little common sense? Why do you create these inconveniences by not observing the rules properly? I am very sorry to note that we are forced to discuss such silly matters—it may appear to be silly to us, but great things to the poor sufferers—and create this unpleasantness and unpleasantatmosphere in this Council Hall? If the responsibility is divided it would be found that more than half of the responsibility rests on the other side of the House. The previous speaker has been saying that a clerk who had to leave the place had to do so to admit the very person who has been promoted now. I say the Government should make enquiries,

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whether the statements are true and if true they should take necessary measures to rectify these mistakes, so that hereafter the appointing authorities may remember that their decisions, if not correct, will be rectified by higher authorities. It is all very well to do justice to the higher officers. They may be able to make proper representation. But in the case of these poor clerks, those people who are to protect their interests are the very same people who refuse to do so and the duty devolves upon the Members of this Council to plead the cause of the lower subordinates of the Government. We earnestly wish that the Government would consider this and would not raise this sort of discussion in this House in future.

Mr. K. Achyuta Menon.—I have nothing to add by way of reply. My argument was that the action of the Government was based on a representation made by persons in authority competent to make such representations, that there was degeneracy and deterioration in that Department. That central argument has not been met by any Hon'ble Member in this House.

Mr. K. Ayyappan.—When was the representation made?

Mr. K. Achyuta Menon.—Prior to the order, and so long as that representation is true the order, to my mind, does not appear to be wrong.

Dr. A. R. Menon.—Does the Hon'ble Member say that the Department is not properly run now?

Mr. K. Achyuta Menon.—I pointed out that the Judges observed that there was deterioration both in the quality and tone of the work turned out by the clerks.

Dr. A. G. Menon.—When was the order passed?

Mr. K. Achyuta Menon.—On 7th February 1933.

Mr. A. Sankara Poduval.—The explanation vouchsafed on behalf of Government does not appeal to me in the least. (*Hear, hear*). Here we are upon a very vital matter of principle and what are the explanations vauchsafed to us? The Chief Court recommended so and so. When were the benefits of the reorganisation granted to the subordinate officers? It was in 1106 M. E. and in 1106 these passed hands—undergraduates—were thought fit to rise up to Rs. 80. They are found fit for and deserving of the increment. A new light has dawned upon the Chief Court, to note this degeneracy and deterioration, all on a sudden. Where was the hot haste to modify the order the principle of which was confirmed by the present Diwan, as explained, in the case of Sambasiva Ayyar by the previous Diwan, Mr. Narayana Ayyar? I condemn the hot haste, as I question the charge of incompetence, which gave rise to the modification of S. O. No. 17.

Now, what is the argument? The clerical staff of the

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Civil Judicial Department, has been manned by undergraduates for a pretty long time, nearly a quarter of a century. Speaking with the experience of a member of the bar, with 30 years' experience behind me, I confidently assert to the House that the ministerial section of the Judicial Department has been carrying on its work very efficiently, in spite of the fact that there was not even a single graduate in it. Then why this 50 per cent rule? The Hon'ble Member, sitting opposite, cast aspersions upon these innocent people accusing them even of corruption. I would certainly support a move to get rid of all corrupt officers whether they be in the subordinate judiciary or elsewhere. I have not heard of a complaint of this kind levelled against these undergraduates in office, and I have also not heard of a corrupt officer being retained in service. Why not dismiss corrupt officers, root and branch? After all, what is the good of having 50 per cent graduates? The ultimate result would be that the work would suffer still more. These new graduates would be men absolutely unacquainted with the procedure followed in courts. The officers already in service, the undergraduates, would not care to coach up the new recruits, in the line. The Judges and Munsiffs will hardly find time to instruct these graduates in the ministerial line of work. The result is on the one hand we have a staff comprised of graduates absolutely unacquainted with the details of the work and on the other hand undergraduates who know the work but who would turn out slackers, out of discontact, and who refuse to co-operate with the former. The proposed reform is as meaningless as it is unnecessary. It would be productive of bad results, disastrous results and this infusion, of graduate talents, instead of mending the evils of the Department, would deteriorate and degenerate it.

All Hon'ble Members of the House must be aware of one or two facts. First of all, it is not every undergraduate that would be given promotion when a vacancy occurs. There is the efficiency bar. It is only when an undergraduate is efficient that he is promoted. Otherwise somebody else would be selected out of the rest. Secondly, there are the departmental tests to qualify them. Government is holding examinations every year. And these undergraduates qualify themselves by passing these Departmental Tests and it is then and then only that they are preferred and promotions given to them. So none of the arguments advanced by the Law Member appeals to me, it is not for me to say one way or the other about the recommendation.

We are not criticising now the Judicial pronouncements of the Judges. We are here upon the desirability

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of the change in a Standing Order in regard to clerical staff of the Civil Courts. This proposal about two years after the reorganisation is not certainly worth appreciating. If there be degeneracy, inefficiency and corruption, why not get rid of them wholesale? Let us have a staff of graduates to do all the clerical work in courts and then the ministerial administration of the Judicial Department can be carried on perfectly well and to the satisfaction of the people of the country. There has not been, I repeat, to my knowledge, any complaint from any quarter of the inefficiency of the administrative portion of the Judicial Department. That, all on a sudden this harm should have been done, is a matter of great grievance to the officers concerned. They come to more than 60 officers. These 60 officers who have been in service for a long time, from 15 to 22 years, are going to be put to great hardship, mental worry, discontent and vexation in consequence of an order which could very well have been made if at all, after the advent of the permanent Diwan and after due consideration. Where was the hurry about it; the file could have been kept pending. My submission, therefore, to the House is that the procedure was totally unjustifiable. I am sure that the matter will come up before the Diwan in appeal. The period of appeal is not over. We want to strengthen the position of the Diwan by the joint support of non-official opinion. The order is one of those which the present Diwan will have to undo, as being the result of hasty and indiscriminate action taken during the tenure of his quandom substitute. I press the motion to a division.

Motion put and carried.

Mr. A. Sankara Poduval.—A poll, Sir.

The House divided—Ayes 16, Noes 12 and neutrals 5.

Ayes.

1	Mr. K. Ayyappan.	9	Mr. P. Kumaran Ezhuthassan.
2	,, A. Eachara Menon.	10	,, T. A. Ramachandra Ayyar.
3	Dr. A. G. Menon.	11	,, M. K. Raman.
4	Mr. E. Ikkanda Warrier.	12	,, P. Raman Menon.
5	,, C. N. Ittiravi Nambudiri.	13	Dr. A. R. Menon.
6	,, P. S. Kesavan Nambudiri.	14	Mr. A. Sankara Menon.
7	,, M. Krishna Menon.	15	,, A. Sankara Poduval.
8	,, T. K. Nayar.	16	,, K. P. Vallon.

Noes.

1	Mr. K. Achyuta Menon.	7	Mr. I. N. Menon.
2	,, M. A. Chakko.	8	,, P. Nilakanta Menon.
3	,, M. P. Cherian.	9	Dr. D. Raghavendra Rao.
4	,, A. I. Mani.	10	Rama Varmha Tampuran.
5	,, C. J. Mathew.	11	Mr. P. V. Raphael.
6	,, M. D. Narayana Ayyar.	12	,, P. V. Subramania Ayyar.

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Neutrals.

1 Mr. K. M. Ibrahim.
2 ,, Joseph Pettah.
3 ,, S. S. Koder.
4 Mr. K. T. Mathew.
5 ,, P. C. Virkey.

The Demand minus Re. 1 was then put and carried.

(2) 14—I. Secondary Boys—Cranganur—Rs. 700.

Mr. I. N. Menon.—Mr. President, Sir, this small sum is required to supplement the deficiency which has been found in the matter of payment of stipends and scholarships under 14-1-Secondary Boys—Cranganur. The expenditure incurred so far makes this additional provision necessaay The monthly expenditure comes to Rs. 128. We have got only Rs. 800 and to meet this expenditure we require a sum of Rs. 1,500. I, therefore, request this House to allow this supplementary grant of Rs. 700.

Motion No. 1.

Mr. K. M. Ibrahim.—In the light of the assurance made on the floor of this House that a committee is to decide the issues raised by the report, I do not move the cut.

Hence the following motion was considered withdrawn.

Mr. K. M. Ibrahim.—*To reduce the allotment of Rs. 700 by Re. 1.*

Demand put and carried.

(3) 14—II—Secondary Girls—Cranganur—Rs. 122

Mr. I. N. Menon.—Sir, I rise to move for an additional allotment of Rs. 122 under 14—2 Secondary Girls—Cranganur. This small amount is also required for the very same purpose, but for Secondary Girls' School. No further explanation for this additional expenditure is necessary and I therefore request that the House will be pleased to grant this additional amount also.

Demand put and carried.

(4) 19—Education—Rs. 680.

Mr I. N. Menon.—Sir, I rise to move for an additional allotment of Rs 680 under 19—Education. The substantial expenditure to which this forms an additional allotment was itself the subject-matter of a discussion in this Council, viz., of the appointment of the Superintendent of Vernacular Education. I feel some hesitation in asking for this additional expenditure, but consistent with the requirements and as the Superintendent of Vernacular Education is given sufficient work in connection with the Elementary Education Committee, I request that this amount may be sanctioned and he may be allowed to work to the end of this year.

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